

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT ILLINOIS
EASTERN DIVISION**

METAL MANAGEMENT, INC.,)
Plaintiff,) In The Circuit Court of Cook County, IL
-v-) County Department, Chancery Division
FACTORY MUTUAL INSURANCE) Case No. 2020 CH 03970
COMPANY,)
Defendant.) U.S.D.C. Case No. _____

**DEFENDANT, FACTORY MUTUAL INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446, Defendant, FACTORY MUTUAL INSURANCE COMPANY (“Factory Mutual”), hereby removes the above-captioned lawsuit from the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Case No. 2020 CH 03970, to the United States District Court for the Northern District of Illinois, Eastern Division. In support of this Notice of Removal, Factory Mutual submits the following 28 U.S.C. § 1446 short and plain statement of the grounds for removal:

BACKGROUND

1. On April 24, 2020, Plaintiff, METAL MANAGEMENT, INC. (“Metal Management” or “Plaintiff”) filed a Complaint against Factory Mutual in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Case No. 2020 CH 03970 (the “State Court Action”).
2. On April 29, 2020, Factory Mutual’s counsel herein agreed to accept service of Summons on behalf of Factory Mutual effective upon the date of receipt of the Summons and the Complaint in the State Court Action.

3. On April 30, 2020, Plaintiff's counsel sent Factory Mutual's counsel a Summons and the Complaint in the State Court Action. Thus, Factory Mutual first received and its counsel herein accepted service of a Summons and Plaintiff's Complaint effective on April 30, 2020.

4. As required by 28 U.S.C. §1446(a), copies of all process, pleadings and orders served by or upon Factory Mutual in the State Court Action are attached as Exhibit A hereto as follows: Summons and Plaintiff's Complaint in the State Court Action, with Exhibit A to Plaintiff's Complaint.

5. Factory Mutual has not answered or otherwise pleaded in response to Plaintiff's Complaint in the State Court Action. Instead, Factory Mutual is filing this Notice of Removal within thirty (30) days of its receipt by service of a copy of Plaintiff's Complaint in the State Court Action.

GROUNDS FOR REMOVAL

6. This action is removable under 28 U.S.C. § 1441(a), which provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

7. This Court has subject matter jurisdiction over Plaintiff's civil action and claims against Factory Mutual under 28 U.S.C. § 1332(a) because the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000, and because the action is between citizens of different states. Therefore, Plaintiff's civil action and claims against Factory Mutual are removable under Section 1441(a). Similarly, this Court has subject matter jurisdiction and removal power over all other claims pursuant to 28 U.S.C. § 1337(a).

Diversity of Citizenship

8. Plaintiff, Metal Management, is a Delaware corporation with its principal place of business located in Chicago, Illinois. *See, Exhibit A hereto, Plaintiff's Complaint, ¶ 1.* For diversity purposes, corporations “are citizens of the state of incorporation and the state in which the corporation has its principal place of business.” *Wise v. Wachovia Sec., LLC*, 450 F.3d 265, 267 (7th Cir. 2006); see also 28 U.S.C. § 1332(c)(1). Thus, for purposes of diversity jurisdiction, Plaintiff is a citizen of Delaware and Illinois.

9. Factory Mutual is a Rhode Island corporation with its principal place of business in Rhode Island. *See, Exhibit A hereto, Plaintiff's Complaint, ¶ 2.* Thus, for purposes of diversity jurisdiction, Factory Mutual is a citizen of Rhode Island.

10. Accordingly, since Plaintiff is a citizen of Delaware and Illinois, and Factory Mutual is a citizen of Rhode Island, there is complete diversity of citizenship in this case.

Amount in Controversy

11. The amount in controversy requirement of 28 U.S.C. § 1332(a) is also satisfied here. In this regard, Plaintiff's Complaint, which includes counts for declaratory judgment (Count I) and for breach of contract (Count II) states that Plaintiff is seeking a judgment for: “a. An award of damages in Plaintiff's favor and against Defendant for an amount in excess of \$3,600,000 plus pre-judgment interest; b. An award of penalties, fees, and costs incurred by Plaintiff in prosecuting this lawsuit; and, c. Such other and further relief as [the] Court deems proper.” *See, Exhibit A hereto, Plaintiff's Complaint, Wherefore Clause, p.7.*

Original Subject Matter Jurisdiction Exists and Removal is Appropriate

12. Because both requirements for diversity jurisdiction are satisfied, this Court has

original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), and the action is removable by Factory Mutual pursuant to 28 U.S.C. § 1441(a).

THE VENUE REQUIREMENT IS MET

13. The United States District Court for the Northern District of Illinois, Eastern Division is the judicial district and division that includes the Circuit Court of Cook County, County Department, Chancery Division, where the suit was originally filed. *See, 28 U.S.C. § 93(a)(1).*

14. As a result, pursuant to §§ 93(a)(1) and 1441(a), venue in the Northern District of Illinois, Eastern Division is proper.

COMPLIANCE WITH REMOVAL PROCEDURES

15. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b), in that it is being filed within thirty (30) days after service of Plaintiff's Complaint in the State Court Action upon Factory Mutual. As noted above, Factory Mutual was first served with a Summons and Plaintiff's Complaint on April 30, 2020. Consequently, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

16. Upon the filing of this Notice of Removal, Factory Mutual shall furnish written notice thereof to Plaintiff's counsel. Factory Mutual shall also file and serve a copy of this Notice with the Clerk of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendant, Factory Mutual Insurance Company, pursuant to 28 U.S.C. §§ 1332(a) and 1441(a), and in conformance with the requirements of 28 U.S.C. § 1446(b), hereby removes this cause from the Circuit Court of Cook County, Illinois, County Department, Chancery Division to the United States District Court for the Northern District of Illinois,

Eastern Division.

Dated: May 29, 2020

Respectfully submitted,

**DEFENDANT, FACTORY MUTUAL
INSURANCE COMPANY**

By: /s/ Thomas B. Keegan

One of Defendant's Attorneys

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